

REMARKS

Applicants appreciate the detailed examination evidenced by the Office Action mailed May 18, 2007 (hereinafter "Office Action"). Applicants respectfully request reconsideration and withdrawal of the rejections of Claims 29, 31-35 and 43-52 for at least the reasons discussed below.

The § 101 rejections are erroneous

Claims 45-52 stand rejected as allegedly claiming non-statutory subject matter. Office Action, p. 2. In particular, the Office Action alleges that "[t]he computer program product claim is merely stored so as to be read or output by a computer without creating any functional relationship," i.e., that the material embodied in the computer-readable storage medium is allegedly "non-functional descriptive material." Office Action, p. 3.

Respectfully, this is untrue. MPEP § 2106.01 states:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. . . . "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Claim 45 recites program code that is configured to cause a computer to perform a number of different functions, for example, program code "*configured to sequentially poll a plurality of devices*" and program code "*configured to detect an anomaly responsive to polling of a first device in the computer system.*" This clearly is *functional descriptive material* as defined in MPEP § 2106.01 and, thus, is statutory subject matter under § 101. Accordingly, Applicants submit that the § 101 rejections of Claims 45-52 are erroneous and should be withdrawn.

Independent Claims 29 and 45 are patentable

Independent Claims 29 and 45 stand rejected as being allegedly obvious with respect to a combination of U.S. Patent Application Publication No. 2003/0110392 to Aucsmith et al. ("Aucsmith") and U.S. Patent Application Publication No. 2002/0078382 to Sheikh et al. ("Sheikh"). Office Action, p. 3. In particular, the Office Action asserts that Aucsmith discloses all of the recitations of Claims 29 except "polling a plurality of devices of the

networked computer system," but asserts that Sheik teaches "polling a plurality of devices of the networked computer system in a predetermined sequential order for information relating to network communication thereof [Fig. 1, 1A, paragraph 0032 lines 5-9, 0042, Fig. 4]." Office Action, p. 4.

Applicants note that, because Aucsmith does not teach "polling a plurality of devices of the networked computer system in a predetermined sequential order for information relating to network communication thereof," it also follows that Aucsmith does not disclose or suggest "determining a second device that is anticipated to be affected by the anomaly by using pattern correlations across the plurality of hosts, servers, and computer sites *following the detection of the anomaly and prior to polling of the second device*," i.e., Aucsmith does not disclose or suggest the specific timing relationship between anomaly detection responsive to polling of a first device, determination that a second device "is anticipated to be affected by the anomaly" and polling of the second device recited in Claims 29 and 45. While the cited material from Sheikh generically describes polling, it also does not disclose or suggest the timing relationships recited in the claims.

In particular, with respect to polling, the cited passage in paragraph 0032 of Sheikh merely states "the central server 110a provides for polling of one or more agent transports," and includes no indication of any particular relationship regarding a timing relationship between this polling and anomaly detection responsive to polling of a first device or determination that a second device "is anticipated to be affected by the anomaly." The cited paragraph 0042 merely indicates that polling may occur in a "parallel" or "serial" manner, but also lacks any disclosure or suggestion of any particular relationship regarding a timing relationship between this polling and anomaly detection responsive to polling of a first device or determination that a second device "is anticipated to be affected by the anomaly." Accordingly, as the Office Action concedes that such teachings are also absent from Aucsmith, the cited combination of Aucsmith and Sheikh does not disclose or suggest all of the recitations of Claims 29 and 45.

For at least the foregoing reasons, Applicants submit that Claims 29 and 45 are patentable.

The dependent claims are patentable

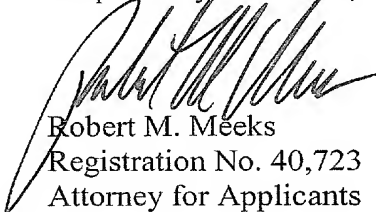
Applicants submit that dependent Claims 31-35, 43, 44 and 46-52 are patentable at least by virtue of the patentability of the respective ones of independent Claims 29 and 45 from which they depend. Applicants further submit that several of the dependent claims are separately patentable.

For example, Claim 44 recites "wherein determining a second device that is anticipated to be affected by the anomaly is followed by comprising sending an alert to the second device prior to polling of the second device." Claim 52 includes corresponding computer program product recitations. As discussed above, the cited references, whether taken alone or in combination, do not disclose or suggest specific recited relationships between polling and detection of anomalies and, for at least similar reasons, the cited references also do not disclose or suggest the specific timing relationships between polling and alerts recited in Claims 44 and 52. For at least these reasons, Applicants submit that Claims 44 and 52 are separately patentable.

Conclusion

As all of the claims are in condition for allowance, Applicants respectfully request allowance of the claims and passing of the application to issue in due course. Applicants urge the Examiner to contact Applicants' undersigned representative at (919) 854-1400 to resolve any remaining formal issues.

Respectfully submitted,



Robert M. Meeks
Registration No. 40,723
Attorney for Applicants

USPTO Customer No. 39072
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on August 15, 2007.


Candi L. Riggs
